

MEMO ENDORSED

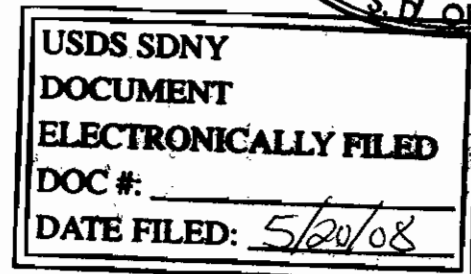
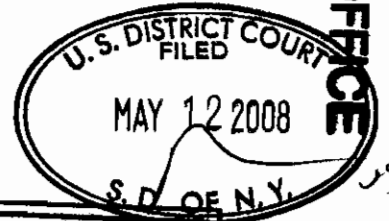
IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CIVIL ACTION No. 07 CIV. 5959 (PKC) (DF)

AHMED MOHAMMAD AJAJ,
PLAINTIFF,

v.

ROSEANNA B. MACKECHNIE, ET. AL.,
DEFENDANTS.



PRO SE OFFICE

MOTION FOR LEAVE TO AMEND THE COMPLAINT TO PLEAD THE
INNOCENCE REQUIREMENT FOR THE LEGAL MALPRACTICE CLAIMS
TO THE HONORABLE JUDGE OF THIS COURT:

COMES NOW, THE PLAINTIFF AHMED M. AJAJ, PRO SE,
AND RESPECTFULLY REQUEST LEAVE TO AMEND THE COMPLAINT
TO PLEAD THE INNOCENCE REQUIREMENT FOR THE LEGAL
MALPRACTICE CLAIMS. IN SUPPORT OF THIS MOTION PLAINTIFF
STATES:

1. ON 4-29-2008, PLAINTIFF RECEIVED A COPY OF
DEFENDANT FRITZ'S MOTION TO DISMISS. IN HER MOTION
TO DISMISS THE LEGAL MALPRACTICE CLAIMS SHE CLAIMS
THAT THE "PLAINTIFF DOES NOT ALLEGE HIS INNOCENCE
IN HIS COMPLAINT NOR DOES HE PRESENT A COLORABLE
CLAIM OF HIS INNOCENCE". (MOTION TO DISMISS p. 9-10).

2. IN HIS FIRST AMENDED COMPLAINT PLAINTIFF
STATED THAT "124. PLAINTIFF, BY VIRTUE OF DEFENDANT'S
MALPRACTICE IS UNABLE TO ESTABLISH ^{HIS} INNOCENCE NOR HE


CAN CHALLENGE HIS CONVICTION AND SENTENCE". (COMPLAINT P. 20); ALSO, THE COMPLAINT ALLEGES ("126. DEFENDANT FRITZ REPEATEDLY ADMITTED THAT PLAINTIFF IS INNOCENCE OF THE CRIMINAL CHARGES AGAINST HIM"). (COMPLAINT P. 20); AND THE COMPLAINT ALLEGES ("PLAINTIFF WOULD HAVE SUCCEEDED ON THE MERITS OF HIS PETITIONS BUT FOR DEFENDANT'S NEGLIGENCE --- PLAINTIFF RIGHT TO CHALLENGE HIS CONVICTION AND SENTENCE WERE LOST THROUGH THE DEFENDANT'S NEGLIGENCE"). (COMPLAINT P. 21, PLEASE, SEE ALSO COMPLAINT P. 30, PARAGRAPH 183).

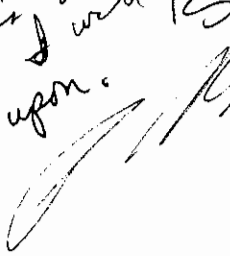
3. DEFENDANT FRITZ CONTENDS THAT PLAINTIFF DID NOT ALLEGE HIS INNOCENCE IN HIS COMPLAINT. IF PLAINTIFF'S PLEADING WAS DEFECTIVE IN THIS RESPECT, THE DEFECT COULD EASILY BE CORRECTED BY AMENDMENT. SEE, E.G., GOMEZ V. USAA FED. SAV. BANK, 171 F.3d 794, 795 (2d Cir. 1999) ("A PRO SE COMPLAINT IS TO BE READ LIBERALLY. CERTAINLY THE COURT SHOULD NOT DISMISS WITHOUT GRANTING LEAVE TO AMEND AT LEAST ONCE WHEN A LIBERAL READING OF THE COMPLAINT GIVE ANY INDICATION THAT A VALID CLAIM MIGHT BE STATED").

4. THE AMENDED COMPLAINT WILL ADD TO PARAGRAPH 124 THE FOLLOWING ("124. PLAINTIFF, BY VIRTUE OF THE DEFENDANT'S MALPRACTICE IS UNABLE TO ESTABLISH HIS INNOCENCE NOR HE CAN CHALLENGE HIS CONVICTION AND SENTENCE. PLAINTIFF IS INNOCENCE OF THE CRIMINAL

CHARGES AGAINST HIM"). (PLEASE, SEE THE ATTACHED).
FOR THE ABOVE REASONS, PLAINTIFF RESPECTFULLY
REQUEST THAT THIS COURT GRANT THIS MOTION.

DATED: MAY 7, 2008.

RESPECTFULLY SUBMITTED,

AHMED M. AJAJ
#40437-053
U.S. PENITENTIARY
P.O. BOX 7000
FLORENCE, CO 81226-7000

Plaintiff's motion
is denied without prejudice.
It will be deemed part of
Plaintiff's response to the motion to dismiss,
including ~~as~~ as a request
for leave to replead. I have denied
the motion at this juncture ~~is that~~
there is presently a pending motion
to dismiss the ~~first~~ complaint
which I will first ~~rule upon~~ ~~rule upon~~.
SO ORDERED

U.S.D.J.
5-20-08